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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR .	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,528	03/07/2001	Mary Rose Woodhead	C70237D1	4127
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GlaxoSmithKline			EXAMINER	
Corporate Intellectual Property - UW2220 P.O. Box 1539 King of Prussia, PA 19406-0939			MEHTA, ASHWIN D	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.							
Examiner		Application No.	Applicant(s)				
Ashwin Mehta 1638 - The MAILING DATE of this communication appears on the cover sheet with the correspondence addross - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Stonosons of time may be available under the provisions of 37 CFR 1.13(p), time overall, however, may a reply be timely filled after 50 kg (b) MONTHS from the maining date of this communication, which is the studies of the maining of the off the communication of communic	Office Action Summers	09/800,528	WOODHEAD ET AL.				
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2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 16 and 17 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are explected. 7) Claim(s) is/are objected to. 8) Claim(s) 16 and 17 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. § 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121.	THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a repl - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statute - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may y within the statutory minimum of will apply and will expire SIX (6) No., cause the application to become	a reply be timely filed thirty (30) days will be considered timely. IONTHS from the mailing date of this communication. ABANDONED (35 U.S.C. § 133).				
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Application/Control Number: 09/800,528

Art Unit: 1638

Election/Restrictions

Note: In the preliminary amendment submitted 07 March 2001, Applicants directed the cancellation of claims 1-16 and entry of new claims 17 and 18. However, there were 15 original claims. Therefore claims 1-15 were cancelled and the new claims were re-numbered as 16 and 17, to comply with 37 CFR 1.126.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 16, drawn to a process for isolating a promoter, classified in class 435, subclass 6, for example.
- II. Claim 17, drawn to a promoter, classified in class 536, subclass 24.1, for example.

 The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process of Group I can also be used to isolate the coding region and 3' regulatory sequences of a gene. Alternative processes, such gene trap or enhancer trap methods can produce the promoter of Group II. The promoter may also be produced by chemical synthesis.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR) 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication from the examiner should be directed to Ashwin Mehta, whose telephone number is 703-306-4540. The examiner can normally be reached on Mondays-Thursdays and alternate Fridays from 8:00 A.M to 5:30 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached at 703-306-3218. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 and 703-872-9306 for regular communications and 703-872-9307 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

April 8, 2002

PATENT EXAMINER